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**EMPLOYMENT LAW
BULLETIN**

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Will A New Law Finally Bring Property Owners Relief From ADA Lawsuits?

Governor Jerry Brown has signed into law Senate Bill 1186, a measure aimed at helping to curb the rampant and abusive filing of ADA lawsuits in California. Property owners and lessors are all too familiar with lawsuits brought under the Americans With Disabilities Act, whereby disabled plaintiffs assert that they were denied full access to certain businesses and properties. It is estimated that between 25,000 and 35,000 ADA lawsuits have been brought in California alone over the last few years. Indeed, while California has approximately 12% of the nation's population, over 40% of all ADA lawsuits in the United States were filed in California.

Small businesses have been hit particularly hard by such lawsuits, which seek statutory damages and the recovery of attorney's fees if any violations are established. Given the cost of defending such suits, the overwhelming majority of such claims are settled, with property owners often feeling that they have been subject to a "shake-down."

The new legislation is the result of a political compromise, and doesn't go far enough to completely eliminate unwarranted cases. However, it does create the following new restrictions and reforms:

- Property owners who make good faith efforts to comply with ADA laws will receive reduced financial penalties. Statutory damages will be lowered from \$4,000 per violation to \$1,000 per violation for those who have their properties inspected by a certified access specialist (CASp) or had construction approved by local building officials as long as fixes bring the property into full compliance within sixty days. Additionally, specified small businesses will have damages reduced to \$2,000 if the fixes are made within thirty days.
- "Stacking" of multiple claims to increase monetary damages will be restricted. A plaintiff will now need to explain the need for multiple visits to the same business with a known uncorrected barrier to access.
- Pre-litigation "demand for money" letters from attorneys are now banned, and all other pre-litigation letters must state facts sufficient to allow a reasonable person to identify the basis of the alleged violation.
- For properties leased after July 1, 2013, the legislation requires commercial property owners and/or lessors to notify tenants if the property has undergone a CASp inspection. CASp inspections notify owners and tenants if buildings are in violation of ADA regulations. Landlords should take note to insure that their post-July 1, 2013 leases are in compliance with the new CASp disclosure requirements.
- Certain defendants may now obtain a court stay of litigation pending an early evaluation conference in the lawsuit.

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